



PRESENT:

Mr. Daniel A. Gecker, Chairman
Mr. Sherman W. Litton, Vice-Chairman
Mr. Jack R. Wilson, III
Mr. Russell J. Gulley
Mr. F. Wayne Bass
Mr. Thomas E. Jacobson, Secretary to the Commission,
Planning Director

ALSO PRESENT:

Mr. Kirkland A. Turner, Development Manager,
Community Development
Mr. William D. Poole, Assistant Director,
Development Review, Planning Department
Mr. Glenn E. Larson, Assistant Director, Plans and Information
Branch, Planning Department
Ms. Beverly F. Rogers, Assistant Director, Zoning and
Special Projects, Planning Department
Mr. Robert V. Clay, Principal Planner, Zoning and
Special Projects, Planning Department
Ms. Jane Peterson, Principal Planner, Zoning and
Special Projects, Planning Department
Ms. Darla W. Orr, Senior Planner, Zoning and
Special Projects, Planning Department
Mr. Fred Moore, Planner, Zoning and
Special Projects, Planning Department
Mr. Gregory E. Allen, Planning Administrator,
Development Review, Planning Department
Mr. Doug Mawby, Senior Planner, Development
Review, Planning Department
Ms. Barbara Fassett, Planning Administrator, Advance Planning
and Research Branch, Planning Department
Mr. James K. Bowling, Principal Planner, Advance Planning
and Research Branch, Planning Department

Mr. Carl D. Schlaudt, Principal Planner, Advance Planning
and Research Branch, Planning Department
Ms. Linda N. Lewis, Administrative Secretary, Administrative
Branch, Planning Department
Ms. Deanna D. Harkabus, Secretary, Administrative
Branch, Planning Department
Mr. J. Michael Janosik, Zoning Administrator,
Planning Department
Mr. David A. Hainley, Planning Administrator,
Development Review, Planning Department
Mr. David W. Robinson, Assistant County Attorney,
County Attorney's Office
Ms. Tara McGee, Assistant County Attorney,
County Attorney's Office
Mr. Allan M. Carmody, Budget Manager,
Budget and Management Department
Mr. R. John McCracken, Director,
Transportation Department
Mr. Richard M. McElfish, Director,
Environmental Engineering Department
Ms. Joan Salvati, Water Quality Administrator,
Mr. Randolph Phelps, Senior Engineer,
Utilities Department
Assistant Fire Marshal Steve Hall, Fire and Life Safety,
Fire Department

WORK SESSION

At approximately 12:00 p. m., Messrs. Gecker, Litton, Wilson, Gulley, Bass and staff met in the Executive Session Meeting Room, Chesterfield County Administration Building for lunch and a work session to discuss the following:

- A. Requests to Postpone Action, Emergency Additions or Changes in the Order of Presentation.**
- B. Review Day's Agenda.**
(NOTE: At this time, any items listed for the 3:00 p. m. and 7:00 p. m. Sessions will be discussed.)
- C. Advance Planning and Research Branch Update.**
- D. Work Program – Review and Update.**
- E. Discussion Relative to:**
 - ◆ **Amendment to Central Area Plan to include Government Center.**
 - ◆ **Guidelines for Review of Substantial Accord Determination and/or Zoning Approval for Communications Tower Locations.**
 - ◆ **Minor Ordinance Amendments.**
 - ◆ **General Assembly Update.**

A. REQUESTS TO POSTPONE ACTION, EMERGENCY ADDITIONS OR CHANGES IN THE ORDER OF PRESENTATION.

There were no requests to postpone action, emergency additions or changes in the order of presentation.

B. REVIEW DAY'S AGENDA.

Mr. Allen updated the Commission as to the status of, and staff's recommendation for, the requests to be considered during the Afternoon Session, as well as a proposed Code Amendment relating to retaining wall standards to be considered during the Evening Session.

Mr. Rogers updated the Commission as to the status of, and staff's recommendation for, the upcoming caseloads and the zoning requests to be considered during the Evening Session.

During the review of the 7:00 p. m. Session Day's Agenda, Mr. Wilson stated he had previously represented the applicant in a zoning matter, declared a conflict of interest pursuant to the Virginia Conflict of Interest Act relative to Case 03SN0330, Cross Over Ministry, Inc. and recused himself from the meeting at approximately 1:13 p. m.

Upon conclusion of the discussion relative to Case 03SN0330, Cross Over Ministry, Inc., Mr. Wilson returned to the meeting at approximately 1:20 p. m.

Ms. Salvati advised the Commission staff anticipated bringing forward a report to the Commission in April 2004 relating to the Swift Creek Reservoir In-Lake Phosphorus Levels for 2003.

Upon conclusion of the discussion relating to in-lake phosphorous levels, the Commission requested staff prepare a memo for discussion at the April 2004 work session outlining draft language for conditions requiring that regional BMPs be in place on all watershed requests.

Mr. Poole updated the Commission as to the status of, and staff's recommendation for, a proposed Code Amendment relating to motor vehicle sales in the C-3 and C-4 zoning districts to be considered during the Evening Session.

C. ADVANCE PLANNING AND RESEARCH BRANCH PROJECTS UPDATE.

Mr. Schlaudt updated the Commission as to the status of upcoming citizens meeting relating to the proposed Northern Area Plan amendment and staff's request to the Board of Supervisors to schedule a public hearing date to consider the draft Public Facilities Plan.

D. WORK PROGRAM.

Mr. Jacobson updated the Commission as to the status of several pending projects that staff anticipated bringing forward in April 2004 as well as projects that, if deemed completed, could be eliminated from the pending action list.

Upon conclusion of discussion relative to the Commission's Work Program, it was the consensus of the Commission to adopt their April 2004 Work Program, as outlined by Mr. Jacobson.

E. DISCUSSION RELATIVE TO:

◆ **AMENDMENT TO CENTRAL AREA PLAN TO INCLUDE GOVERNMENT CENTER.**

Mr. Bowling presented an overview of the proposed amendment to the Central Area Plan (to include the Government Center) and requested the Commission consider setting the date of April 20, 2004, for a public hearing.

On motion of Mr. Litton, seconded by Mr. Gulley, the Commission set the date of, and requested staff advertise, April 20, 2004, at 7:00 p. m., in the Public Meeting Room of the Chesterfield County Administration Building, for a public hearing to consider an amendment to the Central Area Plan (to include the Government Center).

AYES: Messrs. Gecker, Litton, Wilson, Gulley and Bass.

◆ **GUIDELINES FOR REVIEW OF SUBSTANTIAL ACCORD DETERMINATION AND/OR ZONING APPROVAL FOR COMMUNICATIONS TOWER LOCATIONS.**

Ms. Orr presented an overview of proposed revisions to the Guidelines for Review of Substantial Accord Determination and/or Zoning Approval for Communications Tower Locations and related Zoning Ordinance Amendments.

Mr. Bass expressed concern that he may have a conflict of interest relative to the co-location portion of the proposed Ordinance Amendments as he was retired from Dominion Virginia Power and indicated he felt he should recuse himself from voting.

Upon conclusion of the discussion, the Commission requested that the co-location portion of the proposed Ordinance Amendments be brought forward as a separate Ordinance Amendment.

On motion of Mr. Litton, seconded by Mr. Gulley, the Commission set the date of, and requested staff advertise, April 20, 2004, at 7:00 p. m., in the Public Meeting Room of the Chesterfield County Administration Building, for a public hearing to consider amendments to the Guidelines for Review of Substantial Accord Determination and/or Zoning Approval for Communications Tower Locations and related Zoning Ordinance Amendments.

AYES: Messrs. Gecker, Litton, Wilson, Gulley and Bass.

◆ **MINOR ORDINANCE AMENDMENTS.**

Upon conclusion of Mr. Poole's presentation and discussion of the proposed Minor Ordinance Amendments, the Commission requested staff bring the matter back for further discussion at the April 20, 2004 work session.

◆ **GENERAL ASSEMBLY UPDATE.**

Mr. Jacobson updated the Commission as to the status of various individual legislative bills and related information pending before the current session of the General Assembly.

F. RECESS.

There being no further business to come before the Commission, it was the consensus of the Commission to recess at approximately 2:50 p. m., agreeing to meet in the Public Meeting Room at 3:00 p. m. for the Afternoon Session.

3:00 P. M. AFTERNOON SESSION

Mr. Gecker, Chairman, called the Afternoon Session to order at approximately 3:01 p. m. in the Public Meeting Room of the Chesterfield County Administration Building.

A. REQUESTS TO POSTPONE ACTION, EMERGENCY ADDITIONS OR CHANGES IN THE ORDER OF PRESENTATION.

Mr. Jacobson referenced a memo distributed to the Commission during the Work Session regarding corrections to the September 16, 2003, Planning Commission minutes and requested the item be added to the agenda.

On motion of Mr. Gulley, seconded by Mr. Wilson, the Commission amended the agenda to add an item correcting the September 16, 2003, Planning Commission minutes, as outlined in the distributed memo.

AYES: Messrs. Gecker, Litton, Wilson, Gulley and Bass.

B. APPROVAL OF PLANNING COMMISSION MINUTES.

◆ **FEBRUARY 17, 2004:**

Mr. Jacobson stated that the first order of business would be the consideration of the February 17, 2004, Planning Commission minutes.

On motion of Mr. Gulley, seconded by Mr. Litton, the Commission resolved to approve the February 17, 2004, Planning Commission minutes, as written.

AYES: Messrs. Gecker, Litton, Wilson, Gulley and Bass.

◆ **SEPTEMBER 16, 2003:**

Mr. Jacobson stated that the next order of business would be consideration of amendments to the September 16, 2003, Planning Commission minutes, as outlined in the distributed memo.

On motion of Mr. Litton, seconded by Mr. Bass, the Commission resolved to approve the September 16, 2003, Planning Commission minutes, with the following corrections:

Page 6, paragraph 8:

| <u>CASE AND DISTRICT</u> | <u>APPLICANT</u> | <u>REQUEST</u> | <u>PROJECT NAME</u> |
|---|-------------------------|-------------------------------------|----------------------------|
| 03PD0224* Midlothian | Wayne Morris | Substantial Accord Determination | Grove Park Court Tower |

"Mr. Jacobson presented a summary of the request and staff's recommendation, noting the applicant was withdrawing the request.

"No one was present to represent the request.

"No one came forward to speak in favor of, or in opposition to, the request.

"Mr. Gulley left the meeting.

"On motion of Mr. Gecker, seconded by Mr. ~~Gulley~~ Litton, the Commission acknowledged withdrawal of Case 03PD0~~343~~ 224, Wayne Morris.

"AYES: Messrs. Gecker, Litton, Cunningham and Stack.

"ABSENT: Mr. Gulley.

"Mr. Gulley returned to the meeting."

AYES: Messrs. Gecker, Litton, Wilson, Gulley and Bass.

C. CONSIDERATION OF THE FOLLOWING REQUEST:

♦ **CASE WHERE THE APPLICANT ACCEPTS STAFF'S RECOMMENDATION AND THERE WAS NO OPPOSITION PRESENT.**

04PR0263: In Midlothian Magisterial District, **IDI** requested Planning Commission approval of a landscape plan, per zoning Case 86S122. This development is commonly known as **CARMAX**. This request lies in a Community Business (C-3) District on a 2.18 acre parcel fronting approximately 330 feet on the south line of Midlothian Turnpike, also fronting approximately 425 feet on the east line of Murray Olds Drive. Tax ID 739-708-0127 (Sheet 6).

Mr. Bill Johns; the applicant's representative, accepted staff's recommendation.

No one came forward to speak in favor of, or in opposition to, the request.

On motion of Mr. Gecker, seconded by Mr. Wilson, the Commission resolved that approval for landscape approval for the proposed Carmax front sales lot, as required by Condition 5 of zoning Case 84S079, for Case 04PR0263, IDI (CARMAX) shall be and it thereby was granted, subject to the following conditions:

CONDITIONS

1. Remove the six (6) evergreens from Midlothian Turnpike setback.
2. Change the Athena Elm trees along Midlothian Turnpike to an approved small maturing shade tree.
3. Add one (1) Thornless Honeylocust tree to the area at the northeastern corner of the sales lot.
4. Two (2) additional small maturing shade trees shall be planted in the setback. These may be planted in line with the other small trees or in the right of way on either side of the existing western most maple tree (VDOT permit required.)

AYES: Messrs. Gecker, Litton, Wilson, Gulley and Bass.

D. FIELD TRIP AND DINNER.

◆ **FIELD TRIP SITE SELECTION.**

The Commission agreed to forego their Field Trip Agenda to visit requests sites.

◆ **DINNER LOCATION.**

On motion of Mr. Wilson, seconded by Mr. Litton, the Commission agreed to meet at 5:00 p. m. for dinner at John Howlett's Tavern.

AYES: Messrs. Gecker, Litton, Wilson, Gulley and Bass.

E. ADJOURNMENT.

On motion of Mr. Wilson, seconded by Mr. Litton, the Commission adjourned the Afternoon Session at approximately 3:07 p. m.

AYES: Messrs. Gecker, Litton, Wilson, Gulley and Bass.

During dinner, there was discussion pertaining to various rezoning and Conditional Use request sites.

7:00 P. M. EVENING SESSION

At approximately 7:00 p. m., Mr. Gecker, Chairman, called the Evening Session to order.

A. INVOCATION.

Mr. Gulley presented the invocation.

B. PLEDGE OF ALLEGIANCE TO THE FLAG OF THE UNITED STATES OF AMERICA.

Mr. Fred Moore led the Pledge of Allegiance to the Flag.

C. REVIEW MEETING PROCEDURES.

Mr. Jacobson apprised the Commission of the agenda for the next two (2) months, noting the April 20, 2004, agenda was comprised of ten (10) cases and the May 18, 2004, agenda had a total of fifteen (15) cases.

D. REQUESTS TO POSTPONE ACTION, EMERGENCY ADDITIONS OR CHANGES IN THE ORDER OF PRESENTATION.

There were no requests to postpone action, emergency additions or changes in the order of presentation.

E. CONSIDERATION OF THE FOLLOWING REQUESTS:

♦ **REQUESTS FOR DEFERRAL BY INDIVIDUAL COMMISSIONERS.**

03SN0288: In Matoaca Magisterial District, **DOUGLAS R. SOWERS** requested rezoning and amendment of zoning district map from Agricultural (A) and Residential (R-25) to Community Business (C-3) with Conditional Use to allow multi-family residential use and Conditional Use Planned Development to permit exceptions to Ordinance requirements. The density of such amendment will be controlled by zoning conditions or Ordinance standards. The Comprehensive Plan suggests the property is appropriate for regional mixed use and for residential use of 2.0 units per acre or less. This request lies on 117.8 acres fronting in two (2) places for approximately 1,850 feet on the south line of Old Hundred Road, approximately 750 feet east of Otterdale Road and in two (2) places for approximately 725 feet on the east line of Otterdale Road, approximately 1,200 feet south of Old Hundred Road. Tax IDs 716-696-9418 and 9559; 717-695-0722; 717-696-1097; and 718-696-7128 (Sheet 9).

Mr. Bass stated he wished to defer Case 03SN0288 to the April 20, 2004, Planning Commission public hearing to allow the applicant an opportunity to address transportation issues and to allow staff an opportunity to thoroughly evaluate any associated revisions.

Mr. Jim Theobald, the applicant's representative, concurred with Mr. Bass' recommendation.

There was no opposition to the deferral.

The following motion was made at Mr. Bass' request.

On motion of Mr. Bass, seconded by Mr. Litton, the Commission, on their own motion, resolved to defer Case 03SN0288 to the April 20, 2004, Planning Commission public hearing.

AYES: Messrs. Gecker, Litton, Wilson, Gulley and Bass.

04SN0157: In Matoaca Magisterial District, **DOUGLAS R. AND SUSAN S. SOWERS** requested rezoning and amendment of zoning district map from Agricultural (A) to Residential (R-12) of 75.8 acres with Conditional Use Planned Development to permit exceptions to Ordinance requirements and to Convenience Business (C-1) of 5.0 acres. The density of such amendment will be controlled by zoning conditions or Ordinance standards. The Comprehensive Plan suggests the property is appropriate for single family residential use of 2.0 to 2.2 units per acre or less. This request lies on 80.8 acres fronting approximately 3,230 feet on the north line of Beach Road, also fronting approximately 530 feet on the east line of Baldwin Creek Road and located in the northeast quadrant of the intersection of these roads. Tax IDs 707-660-8583 and 709-662-5658 (Sheet 23).

Mr. Bass stated he wished to defer Case 04SN0157 to the April 20, 2004, Planning Commission public hearing to allow re-advertisement of the request.

Mr. Oliver D. "Skitch" Rudy, the applicant's representative, concurred with Mr. Bass' recommendation.

There was no opposition to the deferral.

The following motion was made at Mr. Bass' request.

On motion of Mr. Bass, seconded by Mr. Litton, the Commission, on their own motion, resolved to defer Case 04SN0157 to the April 20, 2004, Planning Commission public hearing.

AYES: Messrs. Gecker, Litton, Wilson, Gulley and Bass.

04SN0187: In Midlothian Magisterial District, **MICHAEL D. SIFEN, INC.** requested rezoning and amendment of zoning district map from Agricultural (A) to General Business (C-5). The density of such amendment will be controlled by zoning conditions or Ordinance standards. The Comprehensive Plan suggests the property is appropriate for mixed use corridor and general commercial use. This request lies on 10.9 acres fronting approximately 150 feet on the north line of Hull Street Road approximately 430 feet east of Turner Road, also fronting approximately 400 feet on the east line of Turner Road approximately 300 feet north of Hull Street Road. Tax ID 765-698-Part of 8303 (Sheets 7 and 11).

Mr. Gecker stated he wished to defer Case 04SN0187 to the April 20, 2004, Planning Commission public hearing to allow the applicant to revise newly submitted proffered conditions.

Mr. Jim Theobald, the applicant's representative, concurred with Mr. Gecker's recommendation.

There was no opposition to the deferral.

The following motion was made at Mr. Gecker's request.

On motion of Mr. Gecker, seconded by Mr. Wilson, the Commission, on their own motion, resolved to defer Case 04SN0187 to the April 20, 2004, Planning Commission public hearing.

AYES: Messrs. Gecker, Litton, Wilson, Gulley and Bass.

◆ **REQUESTS WHERE THE APPLICANT ACCEPTS THE RECOMMENDATION AND THERE IS NO OPPOSITION PRESENT.**

04SN0201: In Midlothian Magisterial District, **M-3 INVESTORS, LLC** requested amendment to Conditional Use (Case 03SN0202) and amendment of zoning district map to permit a reduction in the required number of parking spaces. The density of such amendment will be controlled by zoning conditions or Ordinance standards. The Comprehensive Plan suggests the property is appropriate for general commercial and medium density residential use of 1.51 to 4.0 units per acre. This request lies in Residential (R-7) and Community Business (C-3) Districts on 17.6 acres fronting approximately 600 feet on the north line of Midlothian Turnpike west of, and adjacent to, Powhite Parkway, also fronting approximately 400 feet on the east line of North Pinetta Drive approximately 340 feet north of Midlothian Turnpike. Tax IDs 754-706-3006 and 4831 (Sheets 6 and 7).

Mr. Andy Scherzer, the applicant's representative, accepted staff's recommendation.

No one came forward to speak in favor of, or in opposition to, the request.

On motion of Mr. Gecker, seconded by Mr. Wilson, the Commission resolved to recommend approval of Case 04SN0201 and acceptance of the following proffered condition:

PROFFERED CONDITION

Parking shall be provided at a ratio of 0.65 parking spaces per dwelling unit.

(Note: This proffer is in addition to Proffered Condition III.A.3.c. affecting all units within the Multifamily Residential (R-MF) portion of the project.)

AYES: Messrs. Gecker, Litton, Wilson, Gulley and Bass.

04SN0204: In Matoaca Magisterial District, **JAMES R. HUDSON, JR.** requested amendment to Conditional Use Planned Development (Case 85S035) and amendment of zoning district map to permit a motor vehicle wash. The density of such amendment will be controlled by zoning conditions or Ordinance standards. The Comprehensive Plan suggests the property is appropriate for community mixed use. This request lies in a Neighborhood Business (C-2) District on 0.7 acre fronting approximately 190 feet on the east line of North Spring Run Road approximately 100 feet south of Hull Street Road. Tax ID 726-671-Part of 4343 (Sheet 15).

Mr. Andy Scherzer, the applicant's representative, accepted staff's recommendation.

No one came forward to speak in favor of, or in opposition to, the request.

On motion of Mr. Bass, seconded by Mr. Litton, the Commission resolved to recommend approval of Case 04SN0204, subject to the following conditions:

CONDITIONS

1. In addition to the uses permitted on the subject property (Part of Parcel A), motor vehicle wash shall be permitted on the subject property only. (P)
2. The view of any motor vehicle wash service bays shall be minimized from view of Hull Street and North Spring Run Roads. This treatment shall be approved by the Planning Department at the time of site plan approval. (P)

(NOTES: A. These conditions are in addition to the Textual Statement of Case 85S035, Conditions of Parcel A, and Case 88SN0038 for the subject property only.

B. All other conditions of Cases 85S035 and 88SN0038 shall remain applicable.)

AYES: Messrs. Gecker, Litton, Wilson, Gulley and Bass.

04SN0206: In Midlothian Magisterial District, **JAMES R. HUDSON, JR.** requested rezoning and amendment of zoning district map from Neighborhood Business (C-2) to Community Business (C-3). The density of such amendment will be controlled by zoning conditions or Ordinance standards. The Comprehensive Plan suggests the property is appropriate for community mixed use. This request lies on 1.7 acres fronting approximately 200 feet on the east line of North Providence Road at Twinridge Lane, also fronting approximately 120 feet on the west line of Buford Road approximately 500 feet north of Midlothian Turnpike. Tax ID 759-706-4759 (Sheet 7).

Mr. Andy Scherzer, the applicant's representative, accepted staff's recommendation, including the Addendum.

No one came forward to speak in favor of, or in opposition to, the request.

On motion of Mr. Gecker, seconded by Mr. Bass, the Commission resolved to recommend approval of Case 04SN0206 and acceptance of the following proffered conditions:

PROFFERED CONDITIONS

1. Public water shall be used. (U)
2. Except for timbering approved by the Virginia State Department of Forestry for the purpose of removing dead or diseased trees, there shall be no timbering on the Property until a land disturbance permit has been obtained from the Environmental Engineering Department and the approved devices installed.
3. Direct access from the property to North Providence Road shall be limited to one (1) entrance/exit. The exact location of this entrance/exit shall be approved by the Transportation Department. (T)

4. Prior to any site plan approval thirty-five (35) feet of right of way on the east side of Providence Road, measured from the centerline of that part of Providence Road immediately adjacent to the property shall be dedicated, free and unrestricted, to and for the benefit of Chesterfield County. (T)
5. Prior to issuance of a certificate of occupancy, an additional lane of pavement shall be constructed along North Providence Road for the entire property frontage. (T)
6. A decorative fence, a minimum of four (4) feet in height shall be installed generally along the southern property line. The exact design and treatment shall be approved at the time of site plan review. (P)

AYES: Messrs. Gecker, Litton, Wilson, Gulley and Bass.

04PD0285: In Matoaca Magisterial District, **FIRST CHOICE** requested amendment to Substantial Accord (Case 04PD0188) relative to water quality best management facility. This request lies on 97.9 acres fronting approximately 475 feet on the north line of Cosby Road, approximately 2,700 feet west of Hull Street Road. Tax ID 714-672-8470 (Sheet 15).

Mr. Steve Rao, the applicant's representative, accepted staff's recommendation.

Dr. Tom Pakurar, a Clover Hill District resident and representative for Hands Across the Lake, voiced support for the request, as presented. He addressed environmental concerns, displayed slides of the Swift Creek Reservoir depicting various levels of sedimentation and noted the condition, outlined in the "Request Analysis" would result in a reduction in the phosphorous runoff load into the Reservoir during construction of the newly proposed Cosby Road High School facility.

In response to a question from Mr. Bass, Ms. Salvati stated her department fully supported the proposal, as submitted and she concurred with Dr. Pakurar's presentation.

On motion of Mr. Bass, seconded by Mr. Gulley, the Commission found Case 04PD0285 to be in Substantial Accord with the Comprehensive Plan, subject to the following condition:

CONDITION

A water quality best management facility shall be constructed on-site to achieve a maximum phosphorous runoff limit of .45 pounds per acre per year or a regional BMP shall be in place through which this site shall drain into.

(Note: This Condition supercedes Condition 7 of Case 04PD0188. All other conditions of Case 04PD0188 remain applicable.)

AYES: Messrs. Gecker, Litton, Wilson, Gulley and Bass.

03SN0330: In Bermuda Magisterial District, **CROSS OVER MINISTRY, INC.** requested Conditional Use and amendment of zoning district map to permit a medical clinic in a Residential (R-7) District. The density of such amendment will be controlled by zoning conditions or Ordinance standards. The Comprehensive

Plan suggests the property is appropriate for residential use of 2.51 to 4.0 units per acre. This request lies on 1.0 acre and is known as 2619 Sherbourne Road. Tax ID 790-683-4329 (Sheet 12).

When asked, approximately twenty (20) individuals indicated they were present to address Case 03SN0330; therefore, it was the consensus of the Commission to place the request with those cases requiring discussion.

◆ **CODE AMENDMENTS:**

◆ **RETAINING WALLS STANDARDS.**

◆ ◆ ◆

An Ordinance to amend the Code of the County of Chesterfield, 1997, as amended by enacting Section 19-570.1. This amendment would provide development standards that address the appearance and safety of retaining walls in office, commercial and industrial districts.

◆ ◆ ◆

Mr. Mawby presented an overview of the proposed Code Amendment, including an amendment as reflected in the submitted Addendum and displayed photographs of various types of retaining walls.

No one came forward in favor of, or in opposition to, the proposed Amendment.

On motion of Mr. Gulley, seconded by Mr. Wilson, the Commission recommended approval of the following Code Amendment:

(1) *That Section 19-570.1 of the Code of the County of Chesterfield, 1997, as amended, is added to read as follows:*

DIVISION 3. DEVELOPMENT REQUIREMENTS –
OFFICE, COMMERCIAL AND INDUSTRIAL

Subdivision I. General Provisions, Development Requirements – Countywide

0 0 0

Sec. 19-570.1. Retaining Walls.

(a) Retaining walls shall be constructed so that they are compatible in appearance with the principal structures in the development and/or the view shed in which they are located. Compatibility shall be accomplished through the use of integrated color block or other material that is similar in appearance to the primary structures or is an earth tone acceptable to the Director of Planning.

(b) Walls over ten (10) feet in height and within fifty (50) feet of, and facing, an exterior property line or public right of way shall employ landscaping along the wall base to soften the visual impact

of the wall. Landscaping shall consist of any required setback planting as well as additional evergreen trees to break up large expanses of wall.

(c) Walls shall use the same setback as required for drives and parking from rights of way or property lines. When landscaping is required along the base of a wall, setbacks shall be increased, if necessary, so that a minimum ten (10) foot planting area is provided that is free from any easements, overhead or underground utilities, or other encumbrances that might prevent the installation of required landscaping.

(d) The director of planning may waive any requirements of 19-570.1(a) through 19-570.1(c) at the time of site plan review if it is determined that the visibility or impact of a wall is minimized due to its location, orientation or other conditions in the vicinity of the wall.

(e) Retaining walls four (4) feet tall and higher shall incorporate permanent fencing on the upper side of the wall, and if visible to the public, decorative fencing. Fencing shall be a minimum height of forty-eight (48) inches. If vehicle parking or drives occur on the upper side of the wall without sufficient physical impediment to a vehicle reaching the wall, at least one of the following measures shall be incorporated between the fence and the vehicle area: vehicle guardrails, earth berms at least three (3) feet high above grade on the approach side, or concrete filled steel bollards space four (4) feet on center.

(2) That this ordinance shall become effective immediately upon adoption.
(1923:64427.1; Revised 03/17/04 2:04 PM)

AYES: Messrs. Gecker, Litton, Wilson, Gulley and Bass.

◆ **MOTOR VEHICLE SALES AND REPAIR IN C-3 AND C-4 DISTRICTS.**

◆ ◆ ◆

An Ordinance to amend the Code of the County of Chesterfield, 1997, as amended, by amending and re-enacting Sections 19-159, 19-161 and 19-637. This amendment would change motor vehicle sales from a restricted use to a Conditional Use in the C-3 and C-4 zoning districts.

◆ ◆ ◆

An Ordinance to amend the Code of the County of Chesterfield, 1997, as amended, by amending and re-enacting Section 19-159 relating to motor vehicle repair and motor vehicle sales.

There are two (2) versions of this amendment.

Relative to new motor vehicle repair facilities, the first version would require a ~~200~~ 100 foot setback from adjacent R, R-TH, R-MF, O and some A Districts; require screening of some storage yards; require garage doors to be oriented away or screened from external roads, R, O and some A Districts; require repair activity and parts storage to be within a building or screened; and prohibit facilities from locating in shopping centers unless a Conditional Use is granted.

Relative to new motor vehicle sales facilities, the first version would ~~increase setbacks from 100 to 200 feet between any motor vehicle sales use and adjacent R, R TH, R MF, O and some A Districts and prohibit facilities from locating in shopping centers unless a Conditional Use is granted.~~

The second version would include all changes in the first version and would also require any parcel containing new motor vehicle repair sales facilities to be separated from adjacent R, R-TH, R-MF, O and some A Districts by 200 feet unless a Conditional Use is granted.



Mr. Poole presented an overview of, and explained the proposed various options relative to, the proposed Code Amendment relating to motor vehicle sales and repair in C-3 and C-4 Districts, noting staff recommended approval of Option B-1.

Messrs. Tom Winfree, Chris Andreanos, John Easter and Roger Habeck, members of the Chesterfield County Chamber of Commerce; Mr. Bill Johns, representing Richmond BMW; and Mr. Jimmy Davis, President of the Virginia Independent Automobile Dealers Association and Davis Motors, voiced support for approval of Option B-1.

On motion of Mr. Litton, seconded by Mr. Wilson, the Commission recommended denial of the following Code Amendment:

(1) *That Sections 19-159, 19-161 and 19-637 of the Code of the County of Chesterfield, 1997, as amended, are amended and re-enacted to read as follows:*

Sec. 19-159. Uses permitted with certain restrictions.

The following uses shall be permitted in the C-3 District subject to compliance with the following conditions and other applicable standards of this chapter. If the following restrictions cannot be met, these uses may be allowed by conditional use, subject to the provisions of section 19-13:

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- (f) ~~Motor vehicle sales and rental, excluding commercial vehicles such as buses, tractor-trailer trucks, dump trucks, stake bed trucks, vans where the cargo area cannot be accessed from the driver's seat without exiting the vehicle and/or cab and chassis vehicles; construction equipment and motor vehicle consignment lots, and as accessory to sales and rental, service and repair, to exclude body repair, provided that:~~
 - (1) ~~Motor vehicle service and repair is not located in the Chester Village Area as identified in Section 19-606.~~
 - (2) ~~All such uses shall be set back a minimum of 100 feet from adjacent R, RTH, R-MF and O Districts or A Districts that are shown on the comprehensive plan for R, R TH, R MF or O use. This setback shall be landscaped according to section 19-522(a)(4) of the Development Standards Manual.~~

- ~~(3)~~ Storage yards for vehicles awaiting body repair, painting, auction or wholesale sales shall be screened from view of any adjacent properties on which such yards are not permitted or do not exist, and from external public roads or areas currently zoned agricultural and shown on the comprehensive plan for residential or office use.
- ~~(4)~~ All garage type doors shall be oriented away from, or screened from view of, adjacent residential or office zoned properties, external roads or areas currently zoned agricultural and shown on the comprehensive plan for residential or office use.
- ~~(5)~~ There shall be no elevated display of motor vehicles.
- ~~(6)~~ All allowed repair activities and storage of new or replaced repair materials shall occur inside the buildings unless screened as required by Section 19-159(h).
- ~~(7)~~ Motor vehicle sales is not located in Village Districts as identified in Section 19-606.
- ~~(g)~~ (f) Warehouses for permitted uses, provided that such buildings shall be set back a minimum of 100 feet from adjacent R, R-TH, R-MF or O Districts or A Districts that are shown on the comprehensive plan for R, R-TH, R-MF or O use when loading/warehouse areas are oriented toward such properties. The 100-foot setback shall be landscaped according to section 19-513(a)(4) of the Development Standards Manual. When loading/warehouse areas are oriented away from adjacent R, R-TH, R-MF or O Districts, setbacks shall be governed by the setbacks of this district.
- ~~(h)~~ (g) Outside storage, as accessory to a permitted use, including, but not limited to: retail building materials; construction equipment/materials; outside runs for commercial kennels or veterinary hospitals; feed/seed items; garden centers, greenhouses, hot houses; miscellaneous materials for retail/wholesale sales; provided that:
 - (1) Such uses are screened from view of any adjacent properties on which such uses are not permitted or do not exist, and from areas currently zoned A and designated on the comprehensive plan for R, A, O, or I-1 uses and external public road rights-of-way.
 - (2) No more than ten percent of the gross floor area of the principal use may be used for outdoor storage.
- ~~(i)~~ (h) Continuous outside display of merchandise for sale, as accessory to a permitted use, provided that: (1) merchandise shall be located under a covered pedestrian way that does not exceed 16 feet in width; (2) no more than five percent of the gross floor area of the principal use shall be used for outside display purposes; and (3) merchandise is displayed so that it does not obstruct pedestrian access.

~~(f)~~ (i) Residential multifamily and townhouses, provided that:

- (1) No more than 30 percent of the gross acreage of any project may be used for R-MF or R-TH uses. Such uses shall be incorporated into an integrated schematic plan.
- (2) No such residential uses shall be permitted until the following requirements are satisfied:
 - a. Construction has begun on a minimum of 50 percent of the gross site area devoted to nonresidential uses;
 - b. The minimum size for a project incorporating R-TH uses is 34 gross acres, while the minimum size for a project incorporating RMF uses is 67 gross acres; and
 - c. Such uses comply with the requirements of the R-TH District or the R-MF Zoning District, except that densities for multifamily uses may be increased to 14 units per acre.

~~(k)~~ (j) Prepared food and fruit and vegetable vendors, provided that:

- (1) Only prepared food fruits and vegetables shall be sold;
- (2) They shall be permitted only on a lot or parcel occupied by a permanent use;
- (3) They shall be located where improved permanent parking facilities are available for their use, provided that the required minimum and most convenient parking spaces for the existing permanent use shall be used;
- (4) Any temporary structure, vehicle, sign or other material associated with or resulting from the use shall be removed from the lot or parcel no later than 24 hours following the end of the temporary sale cessation of the use; and
- (5) All vendor areas shall be located a minimum of 1,000 feet from any property in an R, R-TH or R-MF District or any property currently zoned Agricultural and designated for residential use on the comprehensive plan unless the sales area is separate from the property by a permanent building, provided that all such areas shall be located in accordance with the district's minimum yard setbacks.

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Sec. 19-161. Conditional uses.

The following uses may be allowed by conditional use in the C-3 District, subject to the provisions of section 19-13:

- (a) Any conditional use allowed in the C-2 District, unless previously permitted in this district.
- ~~(c)~~ (b) Computer controlled variable message electronic signs.
- (c) Motor vehicle sales and rental and, accessory to those uses, motor vehicle service and repair. The following uses shall be excluded:
 - (1) The sales and rental of commercial vehicles such as buses, tractor-trailer trucks, dump trucks, stake bed trucks, vans where the cargo area cannot be accessed from the driver's seat without exiting the vehicle and/or cab and chassis vehicles
 - (2) Construction equipment and
 - (3) Motor vehicle consignment lots.
- ~~(b)~~ (d) Subject to the following requirements, other uses which are not specifically enumerated in this chapter and which are of the same general character as the specifically enumerated uses allowed in this district. Before the planning commission and board of supervisors hear an application pursuant to this subsection, the director of planning shall consider, among other things, the following: the size and proposed configuration of the site; the size, height and exterior architectural appearance of any proposed structure or structures; noise; light; glare; odors; dust; outdoor activities; traffic; parking; signage; and hours of operation. Based on these considerations, he shall determine that the proposed use's operating characteristics are substantially similar to, and its impact on neighboring properties no greater than, the operating characteristics and impacts of the specifically enumerated uses allowed in this district.

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Sec. 19-637. Limitation on specific signs.

- (a) Changeable copy signs.
 - (1) Changeable copy is not permitted, unless the changeable component of the sign face occupies one-half or less of the total area of the sign face. This restriction does not apply to changeable copy used in movie theater and fuel price signs.
 - (2) If changeable copy is used, it shall abut the sign face or be integrated into the sign face, provided, however, if the sign is incorporated into a monument structure, the changeable copy need not abut or be integrated into the sign face. Changeable copy added to signs existing prior to April 25, 2001 shall abut the sign face as close as physically possible.
 - (3) Computer controlled variable message electronic signs may be allowed subject to section 19-161~~(c)~~(b).

o o o

(2) *That this ordinance shall become effective immediately upon adoption.*
(1923:64286.1; Revised 02/25/04 4:40 PM)

AYES: Messrs. Gecker, Litton, Wilson, Gulley and Bass.

On motion of Mr. Wilson, seconded by Mr. Bass, the Commission resolved to recommend approval of the following Code Amendment:

(1) *That Section 19-159 of the Code of the County of Chesterfield, 1997, as amended, is amended and re-enacted to read as follows:*

Sec. 19-159. Uses permitted with certain restrictions.

The following uses shall be permitted in the C-3 District subject to compliance with the following conditions and other applicable standards of this chapter. If the following restrictions cannot be met, these uses may be allowed by conditional use, subject to the provisions of section 19-13:

o o o

(c) Motor vehicle repair, excluding body, major engine and transmission repair, provided that:

(1) Such use is not located in the Chester Village Area ;

(2) Except as noted in subsection (3), the following conditions shall be met:

a. All such uses shall be set back a minimum of 100 feet from adjacent R, RTH, R-MF and O Districts or A Districts that are shown on the comprehensive plan for R, R-TH, R-MF or O use. This setback shall be landscaped according to section 19-522(a)(4) of the Development Standards Manual.

b. Storage yards for vehicles awaiting body repair, painting, auction or wholesale sales shall be screened from view of any adjacent properties on which such yards are not permitted or do not exist, and from external public roads or areas currently zoned agricultural and shown on the comprehensive plan for residential or office use;

c. Except for minimal repairs necessary to allow a vehicle to be moved into the service area, all allowed repair activities and storage of new or replaced repair materials shall occur inside the buildings unless screened as required by Section 19-159(h).

d. Such use is not located within a shopping center.

(3) The requirements of subsection (2) shall not apply to any motor vehicle repair facility in operation prior to (date of adoption).

- (f) Motor vehicle sales and rental, excluding commercial vehicles such as buses, tractor-trailer trucks, dump trucks, stake bed trucks, vans where the cargo area cannot be accessed from the driver's seat without exiting the vehicle and/or cab and chassis vehicles; construction equipment and motor vehicle consignment lots, and as accessory to sales and rental, service and repair, to exclude body repair, provided that:
- (1) Motor vehicle service and repair is not located in the Chester Village Area as identified in Section 19-606.
 - (2) All such uses shall be set back a minimum of 100 feet from adjacent R, RTH, R-MF and O Districts or A Districts that are shown on the comprehensive plan for R, R-TH, R-MF or O use. This setback shall be landscaped according to section 19-522(a)(4) of the Development Standards Manual.
 - (3) Storage yards for vehicles awaiting body repair, painting, auction or wholesale sales shall be screened from view of any adjacent properties on which such yards are not permitted or do not exist, and from external public roads or areas currently zoned agricultural and shown on the comprehensive plan for residential or office use.
 - (4) All garage-type doors shall be oriented away from, or screened from view of, adjacent residential or office zoned properties, external roads or areas currently zoned agricultural and shown on the comprehensive plan for residential or office use.
 - (5) There shall be no elevated display of motor vehicles
 - (6) Except for minimal repairs necessary to allow a vehicle to be moved into the service area, All allowed repair activities and storage of new or replaced repair materials shall occur inside the buildings unless screened as required by Section 19-159(h).
 - (7) Motor vehicle sales is not located in Village Districts as identified in Section 19-606.
 - (8) Shopping centers
 - a. Except as noted in subsection (b), such use is not located within a shopping center.
 - b. The requirement of subsection (a) shall not apply to any such use existing prior to (date of adoption).

(2) *That this ordinance shall become effective immediately upon adoption.*

AYES: Messrs. Gecker, Litton, Wilson, Gulley and Bass.

◆ **REQUESTS WHERE THE APPLICANT DOES NOT ACCEPT THE RECOMMENDATION AND/OR THERE IS PUBLIC OPPOSITION PRESENT.**

03SN0330: In Bermuda Magisterial District, **CROSS OVER MINISTRY, INC.** requested Conditional Use and amendment of zoning district map to permit a medical clinic in a Residential (R-7) District. The density of such amendment will be controlled by zoning conditions or Ordinance standards. The Comprehensive Plan suggests the property is appropriate for residential use of 2.51 to 4.0 units per acre. This request lies on 1.0 acre and is known as 2619 Sherbourne Road. Tax ID 790-683-4329 (Sheet 12).

Mr. Wilson stated he had previously represented the applicant in a zoning matter, declared a conflict of interest pursuant to the Virginia Conflict of Interest Act relative to Case 03SN0330, Cross Over Ministry, Inc. and recused himself from the meeting at approximately 7:40 p. m.

Mr. Clay presented an overview of the request and staff's recommendation.

Dr. Jay Buston, the applicant's representative, accepted staff's recommendation.

Mr. Gecker opened the discussion for public comment.

Reverend Thomas Sweat, senior minister of Sherbourne United Methodist Church, voiced support for the request, stating the clinic was a positive element of the church and he hoped it would be permitted to remain.

Ms. Cathy Mitchell, Mr. Richard Hill, Ms. Kitty Belcher, Ms. Sara Eastwood, Ms. Renae Eldred, Mr. Billy Stubbs, Mr. Marvin Waldrop, Ms. Margaret Davis, Mr. Mark Cooper, Ms. Claudia Allen and Mr. John Kandris, members of the Bensley Home Owners Association and/or community residents, voiced opposition to the request, citing reasons for not approving the request as being the inappropriateness of the use in a residential community, the lack of a buffer between the church and the residents, adverse impact on area property values created by the use, increased traffic and crime, loitering, hours of operation, trespassing, the lack of adequate heating, air conditioning and plumbing facilities to accommodate the patient clientele, lack of notification to area residents that the church planned to allow the clinic use and other concerns.

Dr. Buston briefly explained the scope of the program services provided and asked those present in support of the request to stand.

There being no one else to speak, Mr. Gecker closed the public comment.

Mr. Litton commended the ministry for providing free health care to the poor and uninsured; pointed out the concern that the use was a business in a residential neighborhood; stated Mr. King, the Bermuda District Supervisor, had requested staff work with the ministry to find a more appropriate location for the clinic and recommended that effort continue; and indicated he would make a motion to allow the clinic to continue its operation, for a limited period, as long as it complied with several conditions, which he read.

Mr. Gulley stated he appreciated the comments of, and sympathized with, the citizens opposing the request, noting he viewed the church use and clinic use as two (2) separate entities; however, he would support Mr. Litton's motion.

Mr. Bass commended Messrs. King and Litton in their efforts to assist the ministry in finding a more appropriate location for the clinic use and would support a motion to recommend approval.

Mr. Gecker stated he disagreed that Cross Over Ministry was a business but did believe the clinic had exceeded its compatibility with the neighborhood, noting he would support Mr. Litton's motion.

On motion of Mr. Litton, seconded by Mr. Bass, the Commission resolved to recommend approval of Case 03SN0330, subject to the following conditions and acceptance of the following proffered conditions:

CONDITIONS

1. Any medical clinic shall only be permitted so long as a church operates on the property.
(P)
2. This Conditional Use shall be granted for a period not to exceed two (2) years from the date of approval.
3. Any medical clinic use shall only be open to the public no more than three (3) days per week, from 9:00 AM to 4:00 PM. There shall be no Saturday or Sunday operations.
4. Any controlled substances such as prescriptions, needles and narcotics shall be placed in a secured cabinet when the medical clinic is not open to the public.
5. Signs shall be posted on the property prohibiting loitering.
6. Any medical clinic shall be located within the basement of the church structure.
7. Persons using the clinic shall enter and exit the facility on the east side of the building.
8. Any solid waste storage area shall be located a minimum of 100 feet from adjacent residentially zoned properties and shall be screened by a solid wall or fence.

AYES: Messrs. Gecker, Litton, Gulley and Bass.

ABSENT: Mr. Wilson.

Mr. Wilson returned to the meeting at approximately 8:47 p. m.

04SN0170: In Bermuda Magisterial District, **HENRY D. MOORE AND KENNETH R. TURNER** requested rezoning and amendment of zoning district map from Agricultural (A) and Neighborhood Business (C-2) to Residential (R-25) and Neighborhood Office (O-1). Residential use of up to 1.74 units per acre is permitted in a Residential (R-25) District. The density of the O-1 portion will be controlled by zoning conditions or Ordinance standards. The Comprehensive Plan suggests the property is appropriate for single family

residential use of 1.01 to 2.5 units per acre. This request lies on 73.3 acres fronting approximately 425 feet on the south line of West Hundred Road approximately 970 feet south of Iron Bridge Road. Tax IDs 784-650-Part of 4858, 784-651-5555 and 785-651-1613 (Sheets 26 and 34).

Mr. Clay presented an overview of the request and staff's recommendation for denial, noting the application did not adequately address transportation concerns.

In response to Mr. Gecker's questions, Mr. McCracken addressed various transportation issues, explaining that in the early 1980s, the County acquired from the then Seaboard Coast Line Railroad a right of way, approximately 100 feet in width, from Chester Road to Branders Bridge Road; that the alignment of the North/South Arterial falls within the abandon railroad right of way; and staff did not support this request because the applicant was not willing to construct two (2) lanes of the North/South Arterial for the length of the property frontage. He further indicated that no public funds had been identified or were anticipated to become available in the foreseeable future for construction of the North/South Arterial and, without the applicants' commitment to construct the road along the property frontage, staff could not support the request.

Mr. Dean Hawkins, the applicant's representative, did not accept staff's recommendation, noting the applicants did not feel they should be required to construct two (2) lanes of the North/South Arterial for the length of the property frontage for a road that would not serve the property.

Mr. Gecker opened the discussion for public comment.

In response to concerns expressed by Mr. Clyde Turner, an adjacent property owner, Mr. Hawkins stated the proposed pond would be located across the property frontage and would not encroach on Mr. Turner's property.

There being no one else to speak, Mr. Gecker closed the public comment.

On motion of Mr. Wilson, seconded by Mr. Gulley, the Commission resolved to recommend approval of Case 04SN0170 and acceptance of the following proffered conditions, including the Addendum:

PROFFERED CONDITIONS

1. The uses permitted in the Neighborhood Office (O-1) District shall be limited to the following:
 - a) Nursery Schools and Child or Adult Day Care Centers and Kindergartens
 - b) Offices
 - c) Churches and/or Sunday Schools (P)
2. The public water system shall be used. (U)
3. With the exception of timbering which has been approved by the Virginia State Division of Forestry for the purpose of removing dead or diseased trees, there shall be no timbering until a land disturbance permit has been obtained from the Environmental Engineering Department and the approved devices have been installed. (EE)

4. In conjunction with the recordation of the initial subdivision plat or prior to site plan approval, whichever occurs first, forty-five (45) feet of right-of-way on the south side of West Hundred Road, measured from the centerline of that part of West Hundred Road immediately adjacent to the property, shall be dedicated, free and unrestricted, to and for the benefit of Chesterfield County. (T)
5. Direct access from the property to West Hundred Road shall be limited to no more than one (1) public road. Direct access, if used, from the property to the proposed North-South major arterial, located along the eastern property line, (the "North-South Arterial") shall be limited to one (1) public road. The exact locations of these accesses shall be approved by the Transportation Department. (T)
6. To provide for an adequate roadway system at the time of complete development, the Owner/Developer shall be responsible for the following:
 - a) Widening/improving the south side of West Hundred Road to an eleven (11) foot wide travel lane, measured from the centerline of the road, with an additional one (1) foot wide paved shoulder plus a seven (7) foot wide unpaved shoulder, with modifications approved by the Transportation Department, for the length of the property.
 - b) Construction of additional pavement along West Hundred Road and the North South Arterial at each approved access to provide left and right turn lanes, if warranted, based on Transportation Department standards.
 - c) Dedication to Chesterfield County, free and unrestricted, of any additional right-of-way or easements required for the improvements identified above. In the event, however, the Developer is unable to acquire any "off-site" right-of-way that is necessary for any improvements described in 6.a and 6.b, the Developer may request in writing, that the County may acquire such right-of-way as a public road improvement. All costs associated with such right-of-way acquisition shall be borne by the Developer. In the event the County chooses not to assist the Developer in the acquisition of "off-site" right-of-way, the Developer shall be relieved of the obligation to acquire the "off-site" right-of-way and only be required to provide road improvements within the available right-of-way as determined by the Transportation Department. (T)
7. Prior to any construction plan approval, and if requested by the Transportation Department, a phasing plan shall be submitted and approved for the required road improvements described in Proffered Condition 6. (T)
8. The exposed surfaces of the foundations of each dwelling shall be covered with brick or stone veneer. (P)
9. All dwellings shall have a minimum gross floor area of 2,200 square feet. (BI)

10. The applicant, subdivider, or assignee(s) shall pay the following to the County of Chesterfield prior to the issuance of a building permit:
- a) \$8,402 per dwelling unit, if paid prior to July 1, 2004; or
 - b) The amount approved by the Board of Supervisors not to exceed \$8,402 per dwelling unit adjusted upward by any increase in the Marshall and Swift Building Cost Index between July 1 2003, and July 1 of the fiscal year in which the payment is made if paid after June 30, 2004. At the time of payment, the \$8,402 will be allocated pro-rata among the facility costs as follows: \$3,547 for roads, \$4,185 for schools, \$324 for libraries and \$346 for fire stations. Payments in excess of \$8,402 shall be pro rated as set forth above.
 - c) In lieu of the Parks and Recreation portion of the Cash Proffer, the Developer shall:
 - 1. Dedicate an easement to the county along the eastern side of the subject parcel for use as a public trail, the terms of which shall be acceptable to the Parks and Recreation Department and shall include, but not be limited to rights (but no obligation) to provide maintenance operations, planting of supplemental landscaping, installation of park signs and other incidental facilities. Specifically, the easement shall be thirty (30) feet in width located adjacent to the 100-foot county-owned right-of-way. Such easement shall be dedicated pursuant to a recorded instrument approved by the Parks and Recreation Department and the County Attorney's office and shall be recorded within one (1) year of zoning approval, prior to or contemporaneously with the recordation of any subdivision plat, whichever occurs first.
 - 2. Construct ½ mile of this public trail to Parks and Recreation standards for a multi purpose, soft-surface trail within two (2) years of zoning approval. The exact design of this trail shall be approved by the Parks and Recreation Department.
 - 3. In the event that the cash payment is not used within 15 years of receipt for the purpose for which it was hereby proffered in 10.a, the cash shall be returned in full to the payor. (B&M)
11. The maximum number of dwelling units permitted for this request shall be 50. (P)
12. At a minimum, the following restrictive covenants shall be recorded for the development:
- Architectural Board: The Architectural Board shall have exclusive jurisdiction over all original construction, modifications, additions or alterations made on or to all existing improvements, and to the open space, if any, appurtenant thereto on all property. It shall prepare and, on behalf of the Board of Directors, shall promulgate design and development guidelines and application and review procedures, all as part of the design

and environmental standards. The standards shall incorporate all restrictions and guidelines relating to the development and construction contained in this Declaration as well as restrictions and guidelines with respect to the location of structures upon property, size of structures, driveway and parking requirements, foundations and lengths of structures, and landscaping requirements. Copies shall be available to those of the Association, and the Architectural Board shall have full and sole authority to prepare and to amend the standards available to Owners, builders, and developers who seek to engage in development of or construction upon property with their operations strictly in accordance therewith. The Architectural Board shall have three (3) members, all appointed by the Declarant. At such time as fifty percent (50%) of the lots have been developed, improved and conveyed to purchasers in the normal course of development and sale, the Board of Directors of the Association shall have the right to appoint two (2) additional members, to be selected from the occupants of the development, to the Architectural Board. At no time shall the Architectural Board have less than three (3) or more than five (5) members. At such time as one hundred percent (100%) of the property has been developed, improved, and conveyed to the purchasers in the normal course of development and sale, the Board of Directors of the Association shall appoint all members of the Architectural Board.

Mailboxes: Every improved lot shall be required to have a mailbox with supporting post and a street light design and installation as specified in the standards. Each lot owner shall be responsible for the maintenance and operation of the fixture, support and mailbox.

Parking: Each property owner shall provide space for the parking of automobiles off the public street prior to occupancy of any building in accordance with the standards.

Signs: No signs shall be erected or maintained on the property by anyone including, but not limited to, the owner, a realtor, a contractor, or a subcontractor, except as may be permitted by legal proceedings. Residential property identification, i.e., address number and like signs shall be permitted if not exceeding a combined area of one (1) square foot and may be erected without the permission of the Declarant or the Association.

Condition of Ground and Premises: It shall be the responsibility of each property owner and/or tenant to prevent the development of any unclean, unsightly, or unkempt conditions of building or grounds on such property which shall tend to substantially decrease the beauty of the neighborhood as a whole or the specific area.

Minimum Square Footage: No building plan submitted under these Covenants shall be approved unless the proposed house or structure has a minimum square footage of enclosed dwelling space as specified in the standards. Such minimum requirement for each lot will be specified in each sales contract and stipulated in each deed. The term "enclosed dwelling area" as used in these minimum size requirements shall not include garages, terraces, decks, open porches and like areas.

Garages: All garages, whether attached or detached to the main dwelling, shall have its doors oriented to the rear or the side of the lot and away from the public street.

Residential Use:

- a. All lots shall be used for residential purposes only. The use of a portion of a dwelling on a lot as an office by the owner or tenant thereof shall be considered a residential use if such use does not create customer or client traffic to and from the lot. No structure, except as herein provided, shall be erected, altered, placed, or permitted to remain on any lot other than one (1) single family detached and one (1) accessory building which may include a detached, private garage, provided the use of such accessory building does not overcrowd the site and further that such building is not used for any activity normally conducted as business. Such accessory building shall not be constructed prior to the construction of the main dwelling.
- b. A guest suite or like facility without a kitchen may be included as a part of the main dwelling or accessory building, but such suite may not be rented as leased as a part of the entire premises including the main dwelling and provided, however, that such suite would not result in overcrowding of the site.
- c. The provisions of this paragraph shall not prohibit the Developer from using a house as a model as provided in this Declaration.

Exterior Construction Completion: The exterior of all dwelling and other structures must be completed within one (1) year after construction of the same has commenced, except where such completion is impossible or would result in great hardship to the Owner or Developer due to fires, strikes, national emergency, or natural calamities. Dwelling or other structures may not be permanently or temporarily occupied until the exteriors thereof have been completed. During the continuance of construction, the Owner of the lot shall require the Contractor to maintain the lot in a reasonably clean and uncluttered condition.

Screened Areas: Each lot shall provide a screened area to serve as a service yard for garbage receptacles, fuel tanks or similar storage containers, electric and gas meters, air conditioning equipment, clotheslines, and other unsightly objects which may be placed or stored in order to conceal them from view from the road and adjacent properties. Plans for such screening delineating the size, design, texture, appearance, and location must be approved by the Architectural Board prior to construction. Garbage receptacles may be placed outside the screened area only if placed underground.

Fences: All fences shall be placed at least forty (40) feet from any property line, unless otherwise approved by the Architectural Board or required by the Building Code. If constructed, fences shall be composed of white vinyl, be a maximum of four (4) feet high, and in no case shall be placed forward of the rear of the principal dwelling.

Vehicle Storage: No mobile home, trailer, tent, barn, or other similar out-building or structure shall be placed on the property at any time, either temporarily or permanently.

Boats, boat trailers, campers, recreational vehicles, or utility trailers may be maintained on a lot, but only when in an enclosed or screened area approved by the Architectural Board such that they will not be generally visible from adjacent properties.

Temporary Structures: No structure of a temporary nature shall be placed upon any lot at any time provided, however, that this prohibition shall not apply to shelter or temporary structures used by the Contractor during construction of the main dwelling house, it being clearly understood that such items shall be removed from the premises immediately upon completion of construction.

Antennas: No antennas for television, radio, or similar device shall be permitted except that if cable television service is not available.

Further Subdivision: No lot shall be subdivided or its boundary lines changed, or application to do so be made and filed with Chesterfield County, without the prior written permission of the Declarant. However, the Declarant reserves the right to itself, its successors and/or assigns to replat any lot or lots owned by it to create a modified building lot for the purposes of creating a suitable building site for a residence, a recreational or common area, or other areas, provided that no lot shown on the original plat is reduced in size smaller than the smallest lot that was shown on the original plat. If two (2) or more lots are combined into one (1) lot, the exterior of the boundary of the newly created lot will serve as the basis for interpretation of these covenants.

Animals: Only common household pet animals shall be permitted. All pet animals shall be secured on a leash or a lead, or be under control of a responsible person at all times. No livestock, including cattle, horses, sheep, goats, pigs, or poultry shall be permitted on any lot. If such prohibited animals are found to be located on any lot, after written notice of complaint and reasonable time to remedy the situation is given, the Board of Directors may take action to have the animal or any pet which has been determined by the Board of Directors to be a nuisance or danger removed from the development.

Motor Bikes or All Terrain Vehicles: No motor bikes, motorcycles, or all terrain vehicles shall be driven upon the common areas, lots, roads (unless property licensed on roads) with the exception of licensed vehicles and mopeds which shall be operated solely upon the public streets for direct ingress and egress purposes only.

External Lighting: No external lighting shall be installed or used on any property which is of a character, intensity, or location which will interfere with the use, enjoyment and privacy of any lot owner or adjacent property. No neon or flashing lighting shall be permitted. All exterior lighting shall be subject to approval by the Architectural Board in size, location, color and intensity.

Swimming Pools: No swimming pool, whether above or below ground, whether temporary or permanent shall be installed upon any lot without prior written approval of the Architectural Board. If installed, all swimming pools shall be screened as approved by the Architectural Board and enclosed as per the requirements of the Building Code.

Rules and Regulations: The Board of Directors is granted and shall have power to regulate rules and regulations, from time to time as it sees fit, governing the use of land activity upon the Common Area. All rules and regulations promulgated by the Board of Directors shall be published and distributed to each member of the Association at least sixty (60) days prior to the effective date. (P)

13. The developer shall pay to the county \$75,000 towards the construction of the North-South Arterial from Route 10 to Branders Bridge Road. Prior to recordation of any lots or prior to any site plan approval, whichever occurs first, the developer shall provide to the county a bond or other surety, in a form acceptable to the County Attorney and in an amount of \$75,000, to ensure such payment. At such time as construction has commenced or funds have been provided by others, as determined by the Transportation Department, whichever occurs first, for any section of the North-South Arterial between Route 10 and Branders Bridge Road ("Commitment"), the developer shall provide \$75,000 payment to the county. After seven (7) years from the date that the county receives the bond or other surety, if there is no Commitment, at the request of the developer, the county shall return the bond or other surety to the developer and the developer shall be relieved of the obligation to provide such payment. (T)

AYES: Messrs. Gecker, Litton, Wilson, Gulley and Bass.

F. ADJOURNMENT.

There being no further business to come before the Commission, it was on motion of Mr. Litton, seconded by Mr. Wilson, that the meeting adjourned at approximately 8:59 p. m. to April 20, 2004, at 12:00 Noon in the Executive Session Meeting Room of the Chesterfield County Government Complex.

AYES: Messrs. Gecker, Litton, Wilson, Gulley and Bass.

Chairman/Date

Secretary/Date